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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5353 of 2007
Date of decision: 16.10.2007

Smt. Prem Devi and others **...Petitioners**

Versus

Smt. Rachna and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sudhir Aggarwal, Advocate for the petitioners.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order dated July 24, 2007 passed by the learned Civil Judge (Junior Division), Gurgaon whereby the prayer of the petitioners/plaintiffs for examination of plaintiff No. 3 as PW-25 was declined.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents/defendants as the same would unnecessarily delay not only disposal of the present petition but the suit as well.

The impugned order was passed on July 24, 2007. Even on that date, statements of 16 witnesses of the petitioners/plaintiffs were recorded and infact as is evident from the impugned order, Court time was already over when the Court declined the prayer made by the petitioners/plaintiffs for recording of statement of plaintiff No.3 as PW-25. No doubt last opportunity had been granted to the petitioners/plaintiffs for completing their entire evidence, however, keeping in view the fact that statements of 16 witnesses of the petitioners/plaintiffs were recorded on that date, makes it evident that petitioners were quite conscious of the fact that this was last opportunity granted to them for completing their evidence. However, keeping in view the fact that while recording the evidence of the witnesses, the Court time was over, in my opinion, in the interest of justice, opportunity for examination of plaintiff no.3 as PW-25 should not be

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declined merely on the ground that his name was not disclosed as one of the witness.

Accordingly, while setting aside the order dated July 24, 2007 passed by the learned Court below declining the examination of plaintiff No.3 as PW-25, it is directed that on the date already fixed for the evidence of defendants, firstly evidence of plaintiff No.3 as PW-25 shall be recorded and thereafter further evidence of defendants in the suit shall be recorded. However, the same shall be subject to payment of Rs. 500/- as costs to the respondents/defendants.

The revision petition is disposed of in the manner indicated above.

October 16, 2007 **(Rajesh Bindal)**
Pka/DK **Judge**